

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

In the Matter of License 6154 (Application 10724)

The City of Winters

ORDER APPROVING CHANGES IN PLACE OF USE, REMOVING A POINT OF
DIVERSION AND AMENDING THE LICENSE

SOURCE: Putah Creek (Under Flow)

COUNTY: Yolo

WHEREAS:

1. License 6154 was issued to The City of Winters on January 17, 1961, for direct diversion of 1.5 cubic feet per second (cfs) from Putah Creek Underflow tributary to the Yolo By-Pass from January 1 through December 31 of each year.
2. A petition to change the place of use and point of diversion was filed with the State Water Resources Control Board (SWRCB) on May 23, 1994 and the SWRCB has determined that good cause for such change has been shown. Public notice of the change was issued on March 17, 1999 and no protests were received.
3. The SWRCB has determined that the petition for change in point of diversion and place of use does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
4. Petitioner has submitted a Negative Declaration from which the SWRCB, as lead agency, has issued a Notice of Determination to comply with the provisions of the California Environmental Quality Act.
5. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act. A term should be placed in the license making the licensee aware of possible obligations resulting from these acts.
6. The license term relating to the continuing authority and water quality objectives of the SWRCB should be updated to conform to section 780(a) & (b), title 23 of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT LICENSE 6154 IS AMENDED TO READ AS FOLLOWS:

1. License 6154 shall be amended to include a maximum annual use of 1,000 acre-feet.
2. Well "B" defined as Point of Diversion (2) shall be deleted and the condition of License 6154 regarding the point of diversion shall be amended to read:

Well "3" at SW corner of intersection of Fourth and Main Streets, being within SE¼ of SE¼ of Projected Section 21, T8N, R1W, MDB&M

3. The Place of Use boundary shall be amended as shown on the map dated September 2000 on file with the State Water Resources Control Board.
4. The continuing authority condition, shall be updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

5. The water quality objectives condition, shall be updated to read as follows:

The quantity of water diverted under this license is subject to modification by the Board if, after notice to the licensee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

6. License 6154 is amended to include the following Endangered Species condition:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

(0000014)

Dated:

JUL 17 2002

STATE WATER RESOURCES CONTROL BOARD

for *David R. Beringer*
Chief, Division of Water Rights



STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

Amended License for Diversion and Use of Water

APPLICATION 10724

PERMIT 6214

LICENSE 6154

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THIS IS TO CERTIFY, That

The City of Winters
Winters, California

Has the right to use waters of Putah Creek (Underflow) in Yolo County tributary to Yolo By-Pass
for the following purposes: **Municipal**

Amended License 6154 supersedes the license originally issued 01/17/1961, which was perfected in accordance with the laws of California, the regulations of the SWRCB or its predecessor, and the terms of Permit 6214. The priority of this right dates from 11/02/1943. Proof of maximum beneficial use of water pursuant to Application 10724 was made as of 05/13/1960 (the date of inspection).

The amount of water that may be used under this license is limited to the amount actually beneficially used for the stated purposes and shall not exceed 1.5 cubic feet per second to be diverted from January 1 to December 31 of each year. The maximum annual use shall not exceed 1,000 acre-feet.

Unless a change is approved by the State Water Resources Control Board (SWRCB), water used under this license may be diverted, rediverted, stored and used only as specified below:

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

Well "3" at SW corner of intersection of Fourth and Main Streets, being within SE¼ of SE¼ of Projected Section 21, T8N, R1W, MDB&M

A DESCRIPTION OF THE LANDS OR THE PLACE WHERE SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

City of Winters, as shown on map dated September 2000, on file with the SWRCB.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

Pursuant to California Water Code Sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code Sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain an incidental take permit prior to construction or operation. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the SWRCB.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the SWRCB.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article (of the Water Code) and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

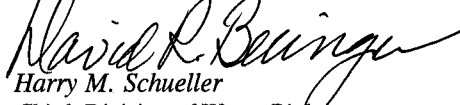
Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated:

JUL 17 2002

STATE WATER RESOURCES CONTROL SWRCB

for 
Harry M. Schueller
Chief, Division of Water Rights